

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 02-0209P

Individual Income Tax

Calendar Year 2000

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ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalties assessed.

STATEMENT OF FACTS

Taxpayer, in a letter dated January 16, 2002 requests an abatement of the penalty. Taxpayer was assessed a late filing penalty and a penalty for the underpayment of estimated taxes. .

Taxpayer filed its return with a tax balance due of \$1,460.13 or one hundred percent (100%) of the total tax and failed to remit payment. Taxpayer also failed to pay estimated income taxes and was assessed a penalty. Taxpayer requests the department abate the penalty because he would be paying the penalty twice.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer states that it does not agree with the assessment for three reasons. He has already paid a ten-percent penalty in December 2001; he was not employed in the State of Indiana; and instructions (both in the IT-40 booklet, and the Indiana Code) state you "should pay estimated tax" and not "shall".

Taxpayer remitted \$1,523.27 postmarked November 23, 2001 that carries a late payment penalty. In addition, taxpayer failed to make estimated tax payments when the amount is in excess of \$400 a year.

IC 6-8.1-10-2.1 states that a person is subject to a penalty if he “fails to pay the full amount of tax shown on the person’s return on or before the due date for the return or payment.

IC 6-3-4-4.1 (c) states that “In the case of an underpayment of the estimated tax as provided in Section 6654 of the Internal Revenue Code, there shall be added to the tax a penalty in an amount prescribed by IC 6-8.1-10-2.1 (b)”.

Taxpayer has not proved reasonable cause; therefore, the Department finds the penalties appropriate.

FINDING

Taxpayer’s protest is denied.